

Message Text

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TAGS: PFOR, OAS, US

SUBJECT: PHASE II OAS SPECIAL COMMITTEE, REPORT NO. 14 -
STATEMENT ON RIO TREATY REFORM

BEGIN SUMMARY: US STATEMENT ON RIO TREATY REFORM MADE BY
AMBASSADOR JOVA IN OCTOBER 24 SESSION OF OAS SPECIAL COM-
MITTEE. FULL ENGLISH/SPANISH TEXT SENT USINFO. POSTS TO
MAKE FULL TEXT AVAILABLE TO FOREIGN MINISTRIES AND DRAW
UPON THIS MESSAGE IN DISCUSSING OUR POSITION ON RIO TREATY.
END SUMMARY.

1. JOVA NOTED THAT IN THIRTEEN APPLICATIONS TREATY HAS
SERVED HEMISPHERE WELL IN DEALING WITH AGGRESSION AND
THREATS OR FEARS OF AGGRESSION--WHETHER BY ONE AMERICAN
STATE AGAINST ANOTHER OR WHETHER STEMMING DIRECTLY OR IN-
DIRECTLY FROM EXTRACONTINENTAL SOURCES--AS WELL AS IN
PROVIDING GOOD OFFICES IN CALMING DISPUTES THAT MIGHT
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LEAD TO ACTUAL CONFLICTS. IT IS IN INTEREST OF HEMISPHERE

TO PRESERVE TREATY AS EFFECTIVE COLLECTIVE SECURITY AND
PEACEKEEPING INSTRUMENT.

2. DESPITE ALLEGATIONS, TREATY WAS NOT COLD WAR PRODUCT
BUT STEMMED FROM ACT OF CHAPULTAPEC (MARCH 1945) AND ITS
ANTECEDENTS DATING BACK TO 1930S. NOTHING IN TREATY IS
AIMED AT ANY PARTICULAR EXTERNAL OR INTERNAL THREAT OR ANY
POLITICAL SYSTEM. IT IS QUESTION OF APPLYING IT WHERE
SHOE FITS.

3. US IS READY TO CONSIDER CHANGES AS LONG AS THEY DO NOT
IMPAIR TREATY'S EFFECTIVENESS. TO BE ADEQUATE TO PEACE-
KEEPING TASK, TREATY MUST COVER CONTINGENCIES SINCE ONE OF
TREATY'S MOST USEFUL FUNCTIONS IS AS DETERRENT.

4. SPECIFIC ISSUES:

I. BASIC RELATIONSHIP WITH UN

IMPORTANT TO STRIKE PROPER BALANCE BETWEEN
ESTABLISHED PREEMINENCE OF INTER-AMERICAN SYSTEM IN DEAL-
ING WITH PEACE AND SECURITY IN HEMISPHERE AND MEMBER'S
RIGHTS UNDER UN CHARTER. WE SEE SOME MERIT IN MEXICAN
PROPOSAL TO SUBSTITUTE LANGUAGE OF UN CHARTER ARTICLE
52(2) IN RIO TREATY ARTICLE 2, BUT CONSIDER IT UNNECESSARY
TO GO BEYOND THIS IN CITING OTHER UN CHARTER ARTICLES,
ESPECIALLY SINCE TREATY ARTICLE 10 STATES MEMBERS RIGHTS
UNDER UN CHARTER ARE UNIMPAIRED.

II. TYPES OF SITUATIONS COVERED

A. ARMED ATTACK. SHOULD BE COVERED AS IN PRE-
SENT ARTICLE 3.

B. INDIRECT AGGRESSION AND THREATS TO PEACE.
ESSENTIAL TO RETAIN IN ARTICLE 6 FACULTY TO DEAL WITH
ACTUAL OR POTENTIAL BREACHES OF PEACE SHORT OF ARMED AT-
TACK, SUCH AS INDIRECT AGGRESSION--E.G. PROMOTING AND
ASSISTING ARMED AND VIOLENT ACTION AGAINST ANOTHER STATE--
AND THREATS OR OTHER SITUATIONS THAT MIGHT ENDANGER PEACE.
(PERU PROPOSES ELIMINATING PRESENT ARTICLE 6 AND MEXICO
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PROPOSES MODIFICATION HAVING INTENT TO ELIMINATE COVERAGE
OF INDIRECT AGGRESSION.) OTHERWISE TREATY WOULD BE
POWERLESS EXCEPT IN EXTREME CASE OF ARMED ATTACK BY A
STATE. (ONLY ONE OF THIRTEEN RIO TREATY CASES
INVOLVED ACTUAL ARMED CONFLICT BETWEEN STATES.) WE EN-
DORSED COLOMBIAN FOREIGN MINISTER'S PERSUASIVE DEFENSE OF
CAPACITY UNDER ARTICLE 6 TO DEAL WITH INDIRECT AGGRESSION
AND THREATS.

C. ECONOMIC AGGRESSION. WE OPPOSE INCORPORATING THIS CONCEPT IN TREATY (PROPOSED BY PERU) AS FOREIGN TO BASIC TREATY PURPOSE OF DEALING WITH ACTUAL OR POTENTIAL BREACHES OF PEACE. WE ALSO ARE CONCERNED OVER ECONOMIC DIFFERENCES, BUT THESE ARE BETTER HANDLED BILATERALLY OR THROUGH EFFECTIVE DISPUTE SETTLEMENT PROCEDURES DESIGNED TO DEAL WITH THIS TYPE OF DIFFERENCE. LATTER IS WORTH EXPLORING, BUT NOT IN RIO TREATY CONTEXT.

III. SOURCE OF AGGRESSION

WOULD BE ERROR TO LIMIT TREATY TO DEALING ONLY WITH AGGRESSIONS OR THREATS BY ONE SIGNATORY AGAINST ANOTHER OR TO LIMIT COVERAGE OF AGGRESSIONS OR THREATS FROM EXTRACONTINENTAL SOURCES TO JOINT ACTION IN UN (PROPOSED BY PERU). TREATY SHOULD PROVIDE PROTECTION REGARDLESS OF SOURCE, TO SHIFT RESPONSIBILITY TO UN WHEN SOURCE OF THREAT IS EXTRACONTINENTAL RUNS RISK OF VETO.

IV. AREA

A. CONTINENTAL AREA. WOULD BE MISTAKE TO REDUCE PRESENT HEMISPHERIC COVERAGE UNDER ARTICLE 4 TO TERRITORIES OF SIGNATORY STATES ONLY (PROPOSED BY MEXICO AND PERU) SINCE THIS WOULD ELIMINATE TERRITORIES OF POTENTIAL MEMBERS AND AREAS SUCH AS CARIBBEAN THAT ARE IMPORTANT TO INTEGRITY AND SECURITY OF HEMISPHERE. THIS DOES NOT CONNOTE AN OBLIGATION TO PROTECT NON-SIGNATORIES BUT A COLLECTIVE SELF-INTEREST.

B. MARITIME AREA. WOULD BE MISTAKE TO RETRACT PRESENT COVERAGE TO CORRESPOND TO VARYING MARITIME AREAS CLAIMED BY THE VARIOUS SIGNATORIES (PROPOSED BY MEXICO UNCLASSIFIED

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AND PERU) SINCE IT WOULD ELIMINATE COVERAGE OF AGGRESSIONS IN ADJACENT HIGH SEAS, RESULT IN UNEQUAL PROTECTION, AND INVOLVE TREATY UNNECESSARILY IN CONFLICTING CONCEPTS OF MARITIME JURISDICTIONS. ESSENTIAL TO HAVE CLEARLY-DEFINED HIGH SEAS ZONE AT ALL POINTS WELL BEYOND MOST EXTENSIVE CLAIMS, ALTHOUGH WE ARE WILLING TO DISCUSS SOME CONTRACTION IN PRESENT ZONE.

C. ARMED FORCES OUTSIDE AREAS COVERED. WE SEE LOGIC TO MEXICO'S PROPOSAL TO ELIMINATE FROM ARTICLE 9-- AND ARTICLE 3--COVERAGE OF ARMED FORCES OF MEMBER STATES OUTSIDE OF ZONE AND OUTSIDE OF OWN TERRITORY, E.G. US FORCES SCATTERED OVER WORLD PURSUANT TO OTHER DEFENSE COMMITMENTS, PROVIDED THERE IS ADEQUATE HIGH SEAS BAND WITHIN TREATY ZONE IN WHICH ARMED FORCES WOULD BE COVERED. WE

AGREE WITH ECUADOR THAT ARTICLE 9 CHARACTERIZATION OF "INVASION" IS USEFUL.

V. TYPES OF MEASURES AUTHORIZED.

A. BINDING MEASURES. ESSENTIAL THAT TREATY
RETAIN POSSIBILITY OF ADOPTING MEASURES BINDING ON ALL
SIGNATORIES, AS IN ARTICLES 8 AND 20, IN ORDER TO BE
EFFECTIVE IN DEALING WITH INTRACTABLE CASES AND AS
DETERRENT. BECAUSE OF POSSIBILITY OF VETO WE COULD NOT
AGREE TO PROPOSAL (BY MEXICO) THAT MEASURES UNDER TREATY

MUST HAVE UN SECURITY COUNCIL APPROVAL TO BE BINDING. WE
RECOGNIZE THAT UN CHARTER ARTICLE 53(1) REQUIRES SECUR-
ITY COUNCIL APPROVAL FOR ENFORCEMENT ACTIONS BY REGIONAL
ORGANIZATIONS, BUT ICJ IN 1962 INTERPRETED THESE ONLY TO
INVOLVE USE OF ARMED FORCE AGAINST AGGRESSOR; 1962 SECUR-
ITY COUNCIL POSITION ON OAS NON-MILITARY SANCTIONS WAS
CONSISTENT WITH THIS VIEW.

B. RECOMMENDED MEASURES. WE SEE MERIT IN MEXICAN
SUGGESTION THAT TREATY PROVIDE EXPLICITLY FOR NON-BINDING
RECOMMENDATIONS AS WELL AS BINDING DECISIONS, AS THIS
WOULD SHOW FLEXIBILITY.

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C. PREVENTIVE, CONCILIATORY OR PERSUASIVE STEPS.
WHILE THESE HAVE BEEN COMMON PRACTICE, TREATY WOULD BE
IMPROVED BY A MORE EXPLICIT PROVISION COVERING DESIRABIL-
ITY OF SUCH STEPS BOTH IN CASES OF ARMED CONFLICT AND
OTHER SITUATIONS, PROVIDED THESE DO NOT NECESSARILY HAVE
TO BE EXHAUSTED BEFORE APPLYING MEASURES IF SITUATION
APPEARS INTRACTABLE.

VI. VOTING REQUIREMENTS

WE MUST OPPOSE PROPOSALS (BY MEXICO AND PERU)
THAT PRESENT OVERALL TWO-THIRDS VOTING REQUIREMENT FOR
ORGAN OF CONSULTATION UNDER ARTICLE 17 BE AMENDED SO THAT
MEASURES BE TERMINATED WHEN THEY CEASE TO HAVE THE TWO-
THIRDS SUPPORT REQUIRED FOR IMPOSING THEM. THIS WOULD
RESULT IN UNCERTAIN SITUATION, WEAKEN EFFECTIVENESS OF
TREATY, AND WOULD BE DIFFICULT TO ADMINISTER.

5. POSTS SHOULD INSURE FULL TEXT MADE AVAILABLE TO APPRO-
PRIATE FOREIGN MINISTRY OFFICIALS AND DRAW UPON THIS MES-
SAGE IN DISCUSSING OUR POSITION WITH THEM. YOU SHOULD
STATE THAT WE BELIEVE THAT WE HAVE TAKEN FORTHCOMING

APPROACH TO MODERNIZING TREATY WHILE RETAINING ITS EFFECT-
IVENESS AND ASK THAT FOREIGN MINISTRY GIVE OUR POSITION
CAREFUL STUDY. KISSINGER

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